

A-PDF MERGER DEMO

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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08 CV 01214

NOHA ELMOHANDES

Plaintiff,

-against-

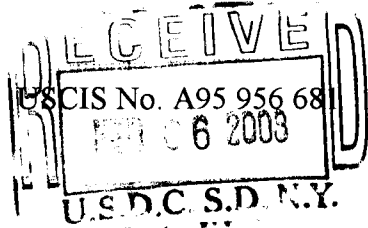
**COMPLAINT FOR
WRIT OF MANDAMUS**

MICHAEL MUKASEY, Attorney General of
the United States; MICHAEL CHERTOFF,
Secretary, Department of Homeland Security;
EMILIO GONZALEZ, Director, U.S. Citizenship
and Immigration Services;
ANDREA QUARANTILLO,
New York District Director of
U.S. Citizenship and Immigration Services

Defendants.

-----X

Civil Action No.



Plaintiff, NOHA ELMOHANDES, through undersigned counsel, alleges as follows:

1. Plaintiff is a native and citizen of Pakistan. She resides within the jurisdiction of this Court. Plaintiff's claim to relief arises under 8 U.S.C. § 1255.

2. Defendant MICHAEL MUKASEY is the Attorney General of the United States; Defendant MICHAEL CHERTOFF is the Secretary, Department of Homeland Security ("DHS"); Defendant EMILIO GONZALEZ is the Director, U.S. Citizenship and Immigration Services ("USCIS"); and Defendant ANDREA QUARANTILLO is the

New York District Director of the United States Citizenship and Immigration Services (“USCIS”) with the supervisory authority over all operations of the USCIS within the New York district, including the authority to grant or deny adjustment applications submitted to the USCIS within the New York district. Defendants are sued herein in their official capacities. Defendants are charged by law with the statutory obligation to adjudicate applications for Permanent Residence.

3. The Court has jurisdiction of this action pursuant to 28 U.S.C. 1331, 28 U.S.C. 1361, and 5 U.S.C. 701 et seq., and relief is requested pursuant to said statutes. This is a civil action to redress the deprivation of rights, privileges, and immunities secured to Plaintiff by compelling Defendants to perform a duty Defendants owe to Plaintiff.

4. Venue is proper in this Court under 28 U.S.C. 1391(e) because Defendant ANDREA QUARANTILLO resides in this district.

5. On or about 14 November 2002 Plaintiff filed an application for permanent residence (Form I-485) under 8 U.S.C. 1255 with the Defendants. An immigrant visa petition (I-130) was filed simultaneously by her U.S. citizen spouse, seeking classification of Plaintiff as the immediate relative spouse of a U.S. citizen.

6. Plaintiff was scheduled for an interview on her application, to be held on 13 January 2005. Defendant USCIS chose to “de-schedule” such appointment and has

subsequently failed to reschedule the interview. Plaintiff has made repeated inquiries of Defendants to learn the status of her application and has been informed only that the background investigation of Plaintiff has not yet been completed.

7. Defendants have given no indication when such background investigation will be completed, nor when Plaintiff may be interviewed and her application adjudicated.

8. Defendants, in violation of law and regulations, have willfully and unreasonably refused to adjudicate Plaintiff's Application to Adjust Status ("Form I-485"), thereby depriving Plaintiff of the benefit of becoming a Permanent Resident of the United States.

9. Defendants owe Plaintiff a duty to adjudicate said application, and have unreasonably failed to perform that duty.

10. Plaintiff has exhausted any administrative remedies that may exist.

WHEREFORE, Plaintiff prays that the Court:

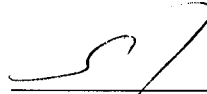
1. Compel Defendants and those acting under them to perform their duty to adjudicate Plaintiff's application; and

2. Grant such other and further relief as this Court deems proper under the circumstances.

Dated: 18 January 2008

Respectfully submitted,

PLUNKETT & DONNARD



Brian Donnard – BD 7318
Counsel for Plaintiff
401 Broadway, Suite 912
New York, New York 10013
(212) 219-9866

Petitioner: Nohaa ELMOHANDES

Alien #: A95 956 681

INDEX

- A. USINS Filing receipt, dated, 18 November 2002,
receipt of I-130 Petition and I-485 Application;
- B. Form I-797C, dated 4 March 2004,
Receipt notice showing priority date of 14 November 2002;
- C. Form I-797C, dated, 26 October 2004,
request for applicant to appear for initial interview on
13 January 2005;
- D. Form I-797C, dated 11 January 2005,
Notice of cancellation of 13 January 2005 interview;
- E. Form I-797, dated 23 May 2006,
ASC Appointment Notice for biometrics;
- F. USCIS response letter, dated 26 September 2006,
Responding to 7 December 2005 inquiry confirming case awaiting
completion of background investigation; and
- G. Form I-797, dated 27 July 2007,
ASC Appointment Notice for biometrics

U.S. I.N.S.
FEE RECEIPT
A CENTURY OF SERVICE

11/18/02

0x8
ELIMINATED

I 485 252.00
FRONT 50.00
I 130 10.00
I 740 10.00
SUBTLE 10.00
TOTAL 332.00
FC 55.00
TOTAL 387.00

004902 13443

UNITED STATES OF AMERICA

Receipt Number MSC-04-106-51094		Case Type I-485 Application to Register Permanent Residence or to Adjust Status
Received Date November 14, 2002	Priority Date November 14, 2002	Applicant A95956681 ELMOHANDES, NOHA
Notice Date March 04, 2004	Page 1 of 1	ASC Code 3

NOHA ELMOHANDES
20 79 31 STREET APT C3
LONG ISLAND CITY, NY 11105

Notice Type **Receipt Notice**
Fee Previously Collected
Section: Adjustment as direct beneficiary
of immigrant petition

The above application/petition has been received. **Please notify us immediately if any of the above information is incorrect.** If you find it necessary to contact us by writing, you must include a copy of this receipt notice with your inquiry.

FINGERPRINTING AND BIOMETRICS-

The next step is to have your fingerprints and biometrics taken at a Bureau of Citizenship and Immigration Services (BCIS) Application Support Center (ASC).

Call our National Customer Service Center (NCSC) **1-800-375-5283** to schedule your appointment. For TDD Hearing impaired assistance, please call **1-800-767-1833**.

It is important that you schedule your appointment. If you do not schedule or appear for your appointment, it could cause your application to be denied. If you need to reschedule your appointment, please call the NCSC at 1-800-375-5283.

WHAT TO BRING TO Your appointment-

Please bring this letter and your photo identification to your appointment. Acceptable kinds of photo identification are:

- a passport or national photo identification issued by your country
- a driver's license,
- a military photo identification, or
- a state-issued photo identification card.

If you do not bring this letter and photo identification, we cannot process you.

Please bring a copy of all receipt notices from BCIS in relation to your current application for benefits

Case Status-

Information about your local office processing times may be obtained by calling the NCSC at 1-800-375-5283.

If you have Internet access, you can visit the BCIS website at www.BCIS.gov where you can find valuable information about forms, filing instructions, and immigration services and benefits.

U.S. BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES

P O Box 648005

Lee's Summit, MO 64064

National Customer Service Center: 1-800-375-5283



De Scheduled



REQUEST FOR APPLICANT TO APPEAR FOR INITIAL INTERVIEW

NOTICE DATE
October 26, 2004

CASE TYPE

FORM I-485, APPLICATION TO REGISTER PERMANENT RESIDENCE OR ADJUST STATUS

AM
A 095 956 681

APPLICATION NUMBER
MSC0410651094

RECEIVED DATE
November 14, 2002

PRIORITY DATE
November 14, 2002

PAGE
1 of 1

APPLICANT NAME AND MAILING ADDRESS

NOHA E ELMOHANDES
20 79 31 STREET APT C3
LONG ISLAND CITY NY 11105

PLEASE COME TO: U.S. Citizenship and Immigration Services
711 STEWART AVENUE
2ND FLOOR SECTION 245
GARDEN CITY NY 11530

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|||||

ON: Thursday, January 13, 2005
AT: 09:00 AM

You are hereby notified to appear for the interview appointment, as scheduled above, for the completion of your Application to Register Permanent Residence or Adjust Status (Form I-485). **Failure to appear may result in the denial of your application.**

Who should come with you?

- If your eligibility is based on your marriage, your husband or wife **must** come with you to the interview.
- If you do not speak English fluently, you should bring an interpreter who is neither a relative nor an interested party in your application.
- Your attorney or authorized representative may come with you to the interview.

NOTE: Every adult who comes to the interview **must** bring Government-issued photo identification, such as a driver's license or ID card, in order to enter the building and to verify his/her identity at the time of the interview. You do not need to bring your children unless otherwise instructed. Please be on time, but do not arrive more than 45 minutes early. We may record or videotape your interview.

What MUST you bring?

- Bring this Interview Notice.
- Bring your Government-issued photo identification.
- Bring all your Passports and any other documents, including your Arrival/Departure Document (Form I-94), used to enter the United States.
- Bring your Birth Certificate.
- Bring all documentation establishing your eligibility for Lawful Permanent Resident status (*see below: "What else should you bring?"*).
- Bring all immigration-related documentation ever issued to you.
- Bring both originals and photocopies of all supporting documents. Otherwise, we may keep your originals for our records.
- Bring a certified English translation for each document not in English. The translator must certify that s/he is fluent in both languages, and that the translation in its entirety is complete and accurate.

What else should you bring?

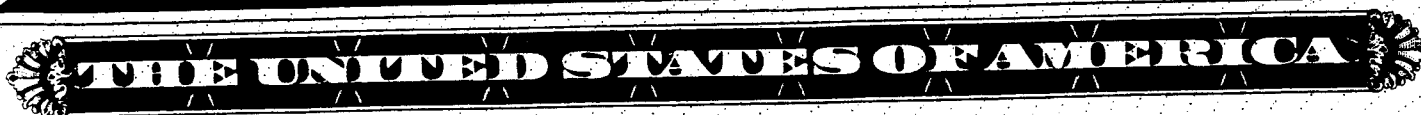
- Bring any Employment Authorization card or paper, and any Authorization for Advance Parole (Form I-512) ever issued to you.
- Bring your petitioner's Birth Certificate *and* your petitioner's evidence of United States Citizenship or Lawful Permanent Resident status.
- If you have children, bring a Birth Certificate for each of your children.
- If you are married, bring your Marriage Certificate.
- If your eligibility is based on your marriage, in addition to your spouse coming to the interview with you, bring:
 - Your spouse's Birth Certificate *and* your spouse's evidence of United States Citizenship or Lawful Permanent Resident status;
 - If either you or your spouse were ever married before, all divorce decrees/death certificates for each prior marriage/former spouse;
 - Birth Certificates for all children of this marriage, and custody papers for your children and for your spouse's children not living with you;
 - Supporting evidence of your relationship, such as joint financial statements, joint legal documents, joint insurance policies, and photos.
- If you have not already submitted it, bring a completed medical examination (Form I-693) *and* vaccination supplement in a sealed envelope.
- Bring your Federal Income Tax returns *and* W-2's, or certified IRS printouts, for the past 3 years.
- If you are employed, bring letters from each of your current employers on company stationery, verifying your current rate of pay *and* average weekly hours, *and* bring your pay stubs for the past 2 months.
- Bring completed Affidavit(s) of Support (Form I-864), with all required evidence, including the following for each of your sponsors:
 - Federal Income Tax returns *and* W-2's, or certified IRS printouts, for the past 3 years;
 - Letters from each current employer on company stationery, verifying current rate of pay *and* average weekly hours, *and* pay stubs for the past 2 months;
 - Evidence of United States Citizenship or Lawful Permanent Resident status.
- If you have ever been arrested, for each arrest, bring the related Police Report and the original or certified Final Court Disposition, even if the charges have been dismissed or expunged. If no court record is available, furnish a letter from the court with jurisdiction indicating this.

PLEASE MAKE EVERY EFFORT TO KEEP YOUR APPOINTMENT, even if you do not have all the listed items. If an emergency, such as the hospitalization of a close relative, prevents you from appearing, call the Citizenship and Immigration Services (CIS) customer service as soon as possible. Please be advised that rescheduling will delay processing, may require some steps to be repeated, and will affect your eligibility for other immigration benefits while this application is pending.

If you have questions, please call CIS customer service at 1-800-375-5283 (hearing impaired TDD service is 1-800-767-1833).

APPLICANT COPY





NOTICE OF INTERVIEW CANCELLATION BY CIS			NOTICE DATE January 11, 2005		
CASE TYPE FORM I-485, APPLICATION TO REGISTER PERMANENT RESIDENCE OR ADJUST STATUS			AN A 095 956 681		
APPLICATION NUMBER MSC0410651094	RECEIVED DATE November 14, 2002	PRIORITY DATE November 14, 2002	PAGE 1 of 1		
APPLICANT NAME AND MAILING ADDRESS NOHA E ELMOHANDES 20 79 31 STREET APT C3 LONG ISLAND CITY NY 11105					
<p> </p> <p>This is to advise you that, due to unforeseen circumstances, we have canceled the previously scheduled interview on Thursday, January 13, 2005 at 09:00 AM for the above applicant. We regret any inconvenience this may cause. You will be notified of any further action taken on this case, including any rescheduled interview information, under separate notice.</p>					
<p>If you have any questions or comments regarding this notice or the status of your case, please contact us at the address or customer service number below:</p> <table border="0"> <tr> <td> Office Address: U.S. CITIZENSHIP AND IMMIGRATION SERVICES P.O. BOX 648005 LEE'S SUMMIT MO 64064- </td> <td> Customer Service Number: CIS National Customer Service Center: 1-800-375-5283 For TDD Hearing Impaired Assistance: 1-800-767-1833 </td> </tr> </table> <p>APPLICANT COPY</p>				Office Address: U.S. CITIZENSHIP AND IMMIGRATION SERVICES P.O. BOX 648005 LEE'S SUMMIT MO 64064-	Customer Service Number: CIS National Customer Service Center: 1-800-375-5283 For TDD Hearing Impaired Assistance: 1-800-767-1833
Office Address: U.S. CITIZENSHIP AND IMMIGRATION SERVICES P.O. BOX 648005 LEE'S SUMMIT MO 64064-	Customer Service Number: CIS National Customer Service Center: 1-800-375-5283 For TDD Hearing Impaired Assistance: 1-800-767-1833				



ASC Appointment Notice

CASE TYPE
I485 Application to Register Permanent Resident or Adjust Status

APPLICATION NUMBER
MSC0410651094

SOCIAL SECURITY NUMBER

USCIS A#

A095956681

NOTICE DATE
5/23/2006

CODE

3

TCR

SERVICE CENTER

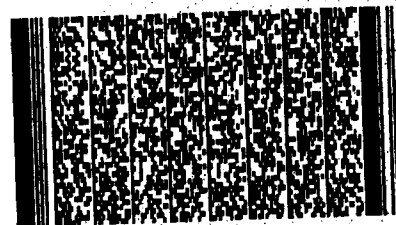
MSC

PAGE

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NOHA ELMOHANDES
1073 BAY SHORE AVE
BAY SHORE, NY 11706

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To process your application, the U. S. Citizenship & Immigration Services (USCIS) must capture your biometrics.
PLEASE APPEAR AT THE BELOW APPLICATION SUPPORT CENTER AT THE DATE AND TIME SPECIFIED.
IF YOU FAIL TO APPEAR AS SCHEDULED, YOUR APPLICATION WILL BE CONSIDERED ABANDONED.

APPLICATION SUPPORT CENTER

USCIS HEMPSTEAD
100 MAIN ST.
SUITE B
HEMPSTEAD, NY 11550

DATE AND TIME OF APPOINTMENT

06/10/2006

8:00 AM

WHEN YOU GO TO THE APPLICATION SUPPORT CENTER TO HAVE YOUR BIOMETRICS TAKEN, YOU MUST BRING:

- 1. THIS APPOINTMENT NOTICE** and
- 2. PHOTO IDENTIFICATION.** Naturalization applicants must bring their Alien Registration Card. All other applicants must bring a passport, driver's license, national ID, military ID, or State-issued photo ID. If you appear without proper identification, your biometrics may not be taken.

APPLICATION NUMBER 1

I485 - MSC0410651094



If you have any questions regarding this notice, please call 1-800-375-5283.

WARNING!

Due to limited seating availability in our lobby area, only persons who are necessary to assist with transportation or completing the biometrics worksheet should accompany you.

If you have open wounds or bandages/casts when you appear, the USCIS may reschedule your appointment if it is determined your injuries will interfere with taking your biometrics.

BIOMETRICS PROCESSING STAMP

ASC SITE CODE:

BIOMETRICS QA REVIEW BY:

395280

ON

JUN 10 2006

TENPRINTS QA REVIEW BY:

395280

ON

JUN 10 2006

U.S. Department of Homeland Security
National Benefits Center
P.O. Box 648005
Lees Summit, MO 64064



**U.S. Citizenship
and Immigration
Services**

Tuesday, September 26, 2006

NOHA ELMOHANDES
1073 BAY SHORE AVE
BAY SHORE NY 11706

Dear NOHA ELMOHANDES:

On 12/07/2005 you, or the designated representative shown below, contacted us about your case. Some of the key information given to us at that time was the following:

Caller indicated they are:	The applicant
Attorney Name:	Information not available
Case type:	I485
Filing date:	11/14/2002
Receipt #:	
Beneficiary (if you filed for someone else):	ELMOHANDES, NOHA
Your USCIS Account Number (A-number):	A095956681
Type of service requested:	Case Status - Outside Processing Time Change of Address

The status of this service request is:

The processing of your case has been delayed. A check of our records establishes that your case is not yet ready for decision, as the required investigation into your background remains open.

Until the background investigation is completed, we cannot move forward on your case. These background checks are required to be completed on all applicants who apply for the immigration benefit you are seeking. We will make every effort to make a decision on this case as soon as the background checks are complete. If you do not receive a decision or other notice of action from us within 6 months of this letter, please contact us by calling our customer service number provided below.

If you have any further questions, please call the National Customer Service Center at 1-800-375-5283.

One final note: When you called you or your representative asked that we update your address on your pending case for the purpose of processing. We have updated your address. Your address now appears on your application or petition as the address shown above.

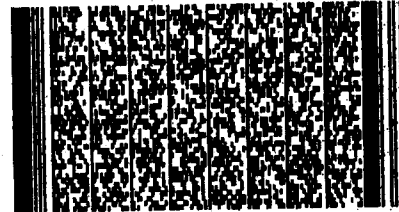
Please remember: By law, every person who is not a U.S. citizen and who is over the age of 14 must also notify the Department of Homeland Security within 10 days from when they move (persons in "A" or "G" nonimmigrant status are exempt from this requirement). If you have moved, please complete a Form AR-11 and mail it to the address shown on that form. If you do not have this form, you can download it from our website or you can call the National Customer Service Center at 1-800-375-5283 and we can order one for you. If you move, please call us with your new address information as soon as your move is complete. If you have already called us and given us this information, you do not need to call again.



ASC Appointment Notice	APPLICATION NUMBER MSC0780235121		NOTICE DATE 7/27/2007
	SOCIAL SECURITY NUMBER	USCIS AM A095956681	CODE 2
	TCR	SERVICE CENTER MSC	PAGE 1 of 1
	CASE TYPE I765		

Noha Elmohandes
1073 Bay Shore Ave
Bay Shore, NY 11706

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To process your application, the U. S. Citizenship & Immigration Services (USCIS) must capture your biometrics.
PLEASE APPEAR AT THE BELOW APPLICATION SUPPORT CENTER AT THE DATE AND TIME SPECIFIED.
IF YOU FAIL TO APPEAR AS SCHEDULED, YOUR APPLICATION WILL BE CONSIDERED ABANDONED.

APPLICATION SUPPORT CENTER
USCIS HEMPSTEAD
100 MAIN ST.
SUITE B
HEMPSTEAD, NY 11550

PLEASE READ THIS ENTIRE NOTICE CAREFULLY.

DATE AND TIME OF APPOINTMENT
08/14/2007
2:00 PM

WHEN YOU GO TO THE APPLICATION SUPPORT CENTER TO HAVE YOUR BIOMETRICS TAKEN, YOU MUST BRING:

1. **THIS APPOINTMENT NOTICE** and
2. **PHOTO IDENTIFICATION.** Naturalization applicants must bring their Alien Registration Card. All other applicants must bring a passport, driver's license, national ID, military ID, or State-issued photo ID. If you appear without proper identification, your biometrics may not be taken.

CELL PHONES, CAMERAS, OR OTHER RECORDING DEVICES ARE NOT PERMITTED.

REQUEST FOR RESCHEDULING

☐ Please reschedule my appointment. Upon receipt of your request, you will be provided a new appointment notice. Make a copy of this notice for your records, then mail the original with your request to USCIS HEMPSTEAD, 100 MAIN ST., SUITE B, HEMPSTEAD, NY 11550

BIOMETRICS PROCESSING STAMP

APPLICATION NUMBER 1

I765 - MSC0780235121



ASC SITE CODE:
BIOMETRICS QA REVIEW BY:

TENPRINTS QA REVIEW BY: **AUG 14 2007**

If you have any questions regarding this notice, please call 1-800-375-5289. ON

WARNING!

Due to limited seating availability in our lobby area, only persons who are necessary to assist with transportation or completing the biometrics worksheet should accompany you.

If you have open wounds or bandages/casts when you appear, the USCIS may reschedule your appointment if it is determined your injuries will interfere with taking your biometrics.